

Sam Clayton
1049 Market St, #203
San Francisco, CA 94103

Plaintiff

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RICHIE J. WILKIN
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

SAM CLAYTON, et al.,

Plaintiff,

v.

Secretary of Dept of Homeland Security, aka

Michael Chertoff;

Director of US Citizenship and Immigration

Services, aka Eduardo Aquire;

Deputy District Director of US Citizenship and

Immigration Services' San Francisco Office, aka

David Still;

Director of FBI aka Robert S. Mueller;

Attorney General;

Department of Homeland Security; US

Citizenship and Immigration Services; FBI;

United States;

Defendants.

Civil Action No. C 07-02781 CW

PLAINTIFF'S DECLARATION

2 PM September 27, 2007

Courtroom 2

Judge Wilken

I state under pains and penalties of perjury this date:

1. Plaintiff Filed a I 485, application to register permanent residence or adjust status with the U.S Citizenship and Immigration Services, pursuant to Section 245 of the Immigration and

Naturalization Act. This petition along with an I-130 and supporting documentation was filed at the San Francisco office in or about 8/14/06. Fingerprints were submitted to the USCIS on or about 9/6/06. The Plaintiff was interviewed on 11/14/06, and was informed that the USCIS had not completed his background check, and therefore was unable to approve the petition.

On about 4/2/07, Plaintiff wrote the USCIS at its San Francisco office in order to inquire information about the status of his case and has not heard back. The USCIS still had not completed his background check, and it could be months till it is complete. Defendants have failed to properly adjudicate the petition. They have failed to adhere to their own regulations and have improperly delayed the processing of the Plaintiff's I-485 Application after the Plaintiff has submitted a properly executed application. It has been over 9 months since Plaintiff filed his I-485.

Defendants have sufficient information to determine Plaintiff's eligibility pursuant to applicable requirements. Defendants' delay in this case is as a matter of law arbitrary and not in accordance with the law. Defendants willfully and unreasonably have inappropriately refused to adjudicate the petition, thereby depriving plaintiff his rights.

Plaintiff has been greatly damaged by the failure of the Defendants to act in accord with their duties under the law. Plaintiff has been unable to obtain legal permanent residence, travel, and work without restriction, and accrue time to be eligible for Naturalization as a citizen of the US.

Defendants are in violation of the Administrative Procedures Act, 5 USC § 701, are unlawfully withholding action on the Plaintiff's application, and have failed to carry out adjudicative functions delegated to the by law. Plaintiff has provided sufficient evidence of his attempt to secure adjudication of these applications, all to no avail.

Dated: August 21, 2007

Very truly yours



Sam Clayton